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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,111	03/01/2002	Kenichi Yakura	220227US2	7218
22850	7590	06/18/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			ESCALANTE, OVIDIO	
		ART UNIT	PAPER NUMBER	
		2645		6

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/085,111	YAKURA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ovidio Escalante	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 March 2002.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 4,5,9 is/are allowed.  
 6) Claim(s) 10 is/are rejected.  
 7) Claim(s) 1-3,6-8 and 11-13 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Drawings***

2. The drawings submitted on March 01, 2002 have been approved by the draftsperson.

***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

4. The disclosure is objected to because of the following informalities:

on page 8, line 1, "seder" should be changed to --sender--;

on page 13, line 7, "seder" should be changed to --sender--.

Appropriate correction is required.

***Claim Objections***

5. Claims 1-3,6-8 and 11-13 are objected to because of the following informalities: the quotations around "permitted" or "prohibited" should be removed for the purpose of clarifying the claim language. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aas US Patent 5,940,740 in view of Nageli US Patent 6,731,942 .

***Regarding claim 10,*** Aas teaches a mobile communication terminal (13) capable of receiving information from another mobile communication terminal (10), (col. 3, lines 18-21; abstract; Aas teaches that device 10 uses cellular communications), which is capable of communicating with information delivery management apparatus (100) having first storage means (message database 104) storing delivery status data indicating whether said information has been delivered or not, (col. 3, lines 46-50).

Aas does not specifically teach of allowing the user to set the permission for whether or not delivery status can be updated.

In the same field of endeavor, Nageli, teaches of a mobile communication terminal (24a) comprising:

check permission determining means for determining check permission data indicating whether a check of delivery status data of information is permitted or prohibited, every time information is delivered, (col. 6, lines 4-17; the claimed permitted or prohibited reads on the request keys of Nageli since if the user does not press the key, the user is "prohibiting" the device from sending the information and by pressing the key the user is "permitting" the device to send the information); and

transmitting means (39) for transmitting said check permission data determined, to a information delivery management apparatus, (col. 6, lines 4-17; col. 7, lines 25-67; col. 12, lines 13-40; figs. 3A-3E).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Aas by providing check permission means as taught by Nageli so that the user can determine on a message by message basis whether or not to send a read message indication back to the system which will indicate that they can respond to the message.

***Allowable Subject Matter***

10. Claims 1-9 and 11-13 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

***Regarding claims 1,6 and 11-13,*** the prior art of record do not teach or suggest the information delivery management apparatus having updating means updating the delivery status if the storage means indicates that it has been permitted to update the status based on check permission data indicating whether it was permitted or prohibited from updating the data based on information received from each mobile communication device and storing the check permission data in the information delivery management apparatus and transmitting updated requests to the mobile terminals to indicate permission and prohibited information in combination with the other limitations in the claims.

***Conclusion***

11. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(703) 872-9306, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 703-308-6262. The examiner can normally be reached on M-F (6:30AM - 5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ovidio Escalante  
Examiner  
Group 2645  
June 14, 2004

*Ovidio Escalante*

**OVIDIO ESCALANTE  
PATENT EXAMINER**